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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,778	06/07/2001	Jan L. Clatty	Mo6418/MD-01-49-PU	8857

7590 03/12/2003

Patent Department
Bayer Corporation
100 Bayer Road
Pittsburgh, PA 15205-9741

EXAMINER

COONEY, JOHN M

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 03/12/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/876,778	CLATTY, JAN L.	
	Examiner	Art Unit	
	John m Cooney	1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> | 6) <input type="checkbox"/> Other: |

Applicant's arguments filed 12-23-02 have been fully considered but they are not persuasive.

All rejections not recited hereinbelow are hereby withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 00/23491.

WO 00/23491 disclose isocyanate reactive components for urethane synthesis comprising blends of polyols, extenders/crosslinkers, blowing agents, and catalysts which read on the isocyanate reactive components claimed by applicants (see the entire document).

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 05/962,617.

JP 05/962,617 disclose isocyanate reactive components for urethane synthesis comprising blends of polyols, extenders/crosslinkers, blowing agents, and catalysts which read on the isocyanate reactive components claimed by applicants (see the abstract {entire document is being sought}).

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Dietrich et al. (5,886,062)

Dietrich et al. disclose isocyanate reactive components for urethane synthesis comprising blends of polyols, extenders/crosslinkers, blowing agents, and catalysts which read on the isocyanate reactive components claimed by applicants (see the entire document).

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Scherzer et al. (6,329,440)

Scherzer et al. disclose isocyanate reactive components for urethane synthesis comprising blends of polyols, extenders/crosslinkers, blowing agents, and catalysts which read on the isocyanate reactive components claimed by applicants (see the entire document).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurth(6,180,686).

Kurth discloses isocyanate-reactive compositions comprising blown soy oil, crosslinking agent, blowing agent, and catalysts in amounts encompassing of applicant's claims (see the entire document). Kurth differs in that it is directed to the exclusion of environmentally questionable and relatively expensive petrochemical based polyols. However, its disclosure is replete with recognition of the well known nature of the polyols being excluded. Accordingly, it would have been obvious for one having ordinary skill in the art to have utilized petrochemical based polyether based polyols disclosed/avoided by Kurth in accompaniment with blown soy oil for the purpose of imparting relative non-degradability to the products being produced therefrom in order to arrive at the products of applicant's claims with the expectation of success in the absence of a showing of new or unexpected results. All disclosures of the prior art, including unpreferred or auxiliary embodiments, must be considered in determining obviousness. In re Mills, 176 USPQ; In re Lamberti, 192 USPQ 278; In re Boe, 148 USPQ 507.

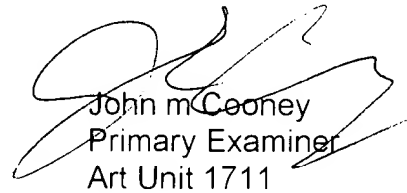
Applicants' arguments have been considered but rejection is maintained as the references disclosure taken in its completeness is seen to fairly suggest applicants' claimed invention as characterized by examiner.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John m Cooney whose telephone number is 703-308-2433. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, james seidleck, can be reached on (703) 308-2462. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.



John m Cooney
Primary Examiner
Art Unit 1711